

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KEVIN A. BRYANT,

Plaintiff,

vs.

EQUIFAX INFORMATION
SERVICES, LLC,

Defendant.

Civil Action No.:

JURY TRIAL
DEMANDED

COMPLAINT

Kevin A. Bryant (“Plaintiff” or “Mr. Bryant”), a living, breathing consumer, brings this Complaint against Equifax Information Services, LLC (“Equifax”), and states as follows:

INTRODUCTION

1. The computerization of our society has resulted in a revolutionary increase in the accumulation and processing of data concerning individual American consumers. Data technology, whether it is used by businesses, banks, the Internal Revenue Service or other institutions, allows information concerning individual consumers to flow instantaneously to requesting parties. Such timely information is

intended to lead to faster and better decision-making by its recipients and, in theory, all of society should ultimately benefit from the resulting convenience and efficiency.

2. However, unfortunately this information has also become readily available for, and subject to, mishandling and misuse. Individual consumers can and do sustain substantial damage, both economically and emotionally, whenever inaccurate or fraudulent information is disseminated and/or obtained about them. In fact, Defendant acknowledges this potential for misuse and resulting damage every time they sell their credit monitoring services to a consumer.

3. The ongoing technological advances in the area of data processing have resulted in a boon for the companies that accumulate and sell data concerning individuals' credit histories and other personal information. Such companies are commonly known as consumer reporting agencies ("CRAs").

4. Defendant Equifax is a CRA as defined by the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).

5. These CRAs sell information to readily paying subscribers (i.e., retailers, landlords, lenders, potential employers, and other similar interested parties), commonly called "consumer reports," concerning individuals who may be applying for retail credit, housing, employment, or a car or mortgage loan.

6. Since 1970, when Congress enacted the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”), federal law has required CRAs to implement and utilize reasonable procedures “to assure maximum possible accuracy” of the personal, private, and financial information that they compile and sell about individual consumers.

7. One of the primary purposes in requiring CRAs to assure “maximum possible accuracy” of consumer information is to ensure the stability of our banking system:

The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

See 15 U.S.C. § 1681(a)(1).

8. The preservation of one’s good name and reputation is also at the heart of the FCRA’s purposes:

[W]ith the trend toward computerization of billings and the establishment of all sorts of computerized data banks, the individual is in great danger of having his life and character reduced to impersonal “blips” and key-punch holes in a stolid and unthinking machine which can literally ruin his reputation without cause, and make him unemployable or uninsurable, as well as *deny him the opportunity to obtain a mortgage or buy a home. We are not nearly as much concerned over the possible mistaken turn-down of a consumer for a luxury item as we are over the possible destruction of his good name without his knowledge and without reason. * * * [A]s Shakespeare said, the loss of one’s good name is beyond price and makes one poor indeed* (emphasis added).

Bryant v. TRW, Inc., 689 F.2d 72, 79 (6th Cir. 1982) [quoting 116 Cong. Rec. 36570 (1970)].

9. The FCRA also requires CRAs to conduct a reasonable reinvestigation to determine whether information disputed by consumers is inaccurate and record the current status of the disputed information, or delete the disputed information, before the end of the 30-day period beginning on the date on which the CRA receives the notice of dispute from the consumer. This mandate exists to ensure that consumer disputes are handled in a timely manner and that inaccurate information contained within a consumer's credit report is corrected and/or deleted so as to not prevent said consumer from benefiting from his or her credit and obtaining new credit.

10. In light of these important findings and purposes, Congress specifically noted "a need to insure that [CRAs] exercise their grave responsibilities with fairness, impartiality, and respect for the consumer's right to privacy." *See* 15 U.S.C. § 1681(a)(4).

11. This action seeks actual, statutory, and punitive damages, costs and attorneys' fees for Plaintiff against Defendant for their willful and/or negligent violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.*, as described herein.

THE PARTIES

12. Plaintiff Kevin A. Bryant (“Plaintiff” or “Mr. Bryant”) is a natural person who resides in the State of Florida, and is a “consumer” as that term is defined in 15 U.S.C. § 1681a(c).

13. Defendant Equifax Information Services, LLC (“Equifax”) is a limited liability company residing in the State of Georgia and in the Northern District.

14. Equifax is a “consumer reporting agency” as defined in 15 U.S.C. § 1681a(f). Equifax is regularly engaged in the business of assembling, evaluating, and disseminating information concerning consumers for the purpose of furnishing consumer reports, as defined in 15 U.S.C. § 1681a(d) to third parties.

JURISDICTION AND VENUE

15. This Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1681p, which allows claims under the FCRA to be brought in any appropriate court of competent jurisdiction.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTS

The Credit Bureau Defendant’s Practices Concerning the Sale of Credit Reports on the “Deceased”

17. Defendant Equifax sells millions of consumer reports (often called “credit reports” or “reports”) per day, and also sell credit scores.

18. Pursuant to 15 U.S.C. § 1681e(b), consumer reporting agencies, like Defendant Equifax, are required “to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.”

19. Pursuant to 15 U.S.C. §§ 1681b and 1681e(a), consumer reporting agencies, like Defendant, must maintain reasonable procedures to assure that reports are sold only for legitimate “permissible purposes.”

20. Defendant Equifax routinely places a “deceased” notation or marking on credit reports when they are advised by any of their many data furnishing sources (such as banks and debt collectors) that a given consumer is deceased.

21. Defendant Equifax’s furnishing sources identify “deceased” consumers by marking the “status” of such consumer’s responsibility for any subject account with an “X” code in the “ECOA” field of an electronic data input format used in the credit reporting industry, known as Metro or Metro 2.

22. Defendant Equifax does not request or require a death certificate from any of their data sources which advise that a consumer is “deceased” before placing a “deceased” mark in that consumer’s credit file.

23. Defendant Equifax does not request or require any proof from any data source which advises that a consumer is “deceased” showing that the consumer is, in fact, deceased before placing a “deceased” mark on that consumer’s report.

24. Defendant Equifax does not independently verify with any source or furnisher that a consumer is, in fact, deceased before placing a “deceased” mark on that consumer’s report.

25. In some cases, in order to assure accuracy, Defendant Equifax may send letters and/or other communications to consumers when certain information that may be considered suspicious or unreliable is furnished about said consumers to be placed in their credit files, such as in cases where consumers have a freeze or fraud alert on their credit report, or in accordance with certain state laws, such as the consumer laws of Colorado. Defendant Equifax does not have any procedure to notify consumers (such as a next of kin or executor or administrator of the consumer’s estate) when an “X” deceased code is furnished to it to be placed in said consumer’s credit file or report.

26. Defendant Equifax regularly receives the “Death Master File” from the Social Security Administration, including weekly and/or monthly updates, listing by social security number those consumers that the government believes to be deceased. But Defendant Equifax does not cross-reference the “X” code received from data furnishers with the Death Master File in order to determine whether any given

consumer reported as deceased via a furnishing source is also on the Death Master File before selling a credit report about said consumer, or at any time.

27. Defendant Equifax will only use the Death Master File to sell additional products for an additional fee, which are designed to show whether a given consumer is truly deceased.

28. Defendant Equifax does not employ any procedures *at all* to assure that a consumer with a “deceased” mark on his/her report is, in fact, actually deceased before placing the “deceased” mark on that consumer’s report and selling that report for profit.

29. Even in instances where other data on the face of the consumer’s report indicates that he/she is not deceased, Defendant Equifax does not employ any procedures to assure that a consumer with a “deceased” mark on his/her report is, in fact, actually deceased before placing the “deceased” mark in that consumer’s file.

30. Even in instances where the purportedly deceased consumer communicates directly with Defendant Equifax, Defendant Equifax does not employ any procedures to assure that a consumer with a “deceased” mark on his/her report is, in fact, actually deceased before placing the “deceased” mark on that consumer’s report.

31. Once a “deceased” mark is placed upon a consumer’s report, Defendant Equifax will not calculate and will not provide a credit score for that consumer.

32. Upon Defendant Equifax's reports with a "deceased" mark sold to third parties, Defendant Equifax never calculates or provides a credit score for that consumer and instead reports that consumer's credit score as "N/A."

33. Defendant Equifax knows that third party credit issuers require a credit score in order to process a given credit application.

34. Defendant Equifax knows that consumers without credit scores are unable to secure any credit from most credit issuers.

35. Defendant Equifax knows that living consumers are routinely turned down for credit specifically because they are reporting them as "deceased" and without a credit score.

36. Defendant Equifax has been put on notice for years through consumer disputes and lawsuits that living, breathing consumers are turned down for credit specifically because they are reporting them as "deceased" and without a credit score.

37. Defendant Equifax has received and documented many disputes from consumers complaining that their credit reports had them erroneously marked as "deceased."

38. Defendant Equifax knows that thousands of consumers are erroneously marked as "deceased" on their credit reports via an erroneous furnishing of the "X"

code, even when said consumers (and their dates of birth and social security numbers) are not on the Death Master File and are, in fact, alive.

39. Nevertheless, Defendant Equifax does not employ any procedures to assure that a consumer marked as “deceased” on their credit reports is, in fact, deceased.

40. Even consumers who dispute the erroneous “deceased” status on their Equifax credit report continue to be erroneously marked as deceased unless the furnishing source which provided the erroneous “X” code in the first instance decides to change the code.

41. Defendant Equifax does not have any independent procedure to change an erroneous deceased status on their own and will merely parrot their furnishing source in the case of a reinvestigation into the accuracy of the deceased status upon a consumer’s report, a reinvestigation which is triggered by a consumer dispute.

42. Nor does Equifax employ any procedures to limit or stop the furnishing of reports to third parties for consumers that they have marked as “deceased” under any circumstances.

43. For years after a consumer’s actual death, Defendant Equifax will continue to sell credit reports about that consumer.

44. Defendant Equifax will only remove a deceased consumer's file from their respective credit reporting databases when it is no longer valuable to them—meaning that no one is continuing to purchase reports about that consumer.

45. Defendant Equifax charges third parties a fee for reports with a mark that a consumer is deceased (“reports on the deceased”) as they would for any other report.

46. Defendant Equifax profits from the sale of reports on deceased consumers.

47. Defendant Equifax has in their credit reporting database many “deceased” tradelines corresponding to distinct credit files for individual consumers that they have marked as “deceased.”

48. Defendant Equifax know that truly deceased consumers do not apply for credit.

49. Defendant Equifax knows that the credit information and reports of truly deceased persons are used by criminals to commit identity theft or credit fraud. Indeed, identity theft using the personal identifying information of deceased consumers is known to Defendant Equifax to be a common and major source of identity theft.

50. Defendant Equifax knows that identity theft and credit fraud are serious and widespread problems in our society.

51. Defendant Equifax warns the relatives of truly deceased consumers that identity theft can be committed using the credit reports and information of the deceased, and require relatives to provide a death certificate or executorship papers, among other forms of proof, before accessing the deceased consumer's credit information or report.

52. Defendant Equifax has no similar death certificate, executorship paper, or any other proof requirements for their data sources, which report a consumer as deceased or for the purchasers of their reports who access the purportedly deceased consumer's information.

53. Defendant Equifax sells reports on supposedly deceased consumers to third parties in an automated fashion and without any specific or general certification that could reasonably explain a "permissible purpose" for purchasing or using a (supposedly) deceased consumer's credit history and/or report.

54. For consumers who are deceased, there rarely, if ever, exists a permissible purpose under the FCRA for Defendant Equifax to sell their credit reports, absent a court order.

55. Defendant Equifax knows that such reports contain a vast amount of personal identifying and credit account information on the supposedly deceased consumer, information that can be used to commit identity theft or for other fraudulent purposes.

Defendant Equifax's Inaccurate Credit Reporting Causes Plaintiff to be Denied Store Credit Card

56. On or about January 1, 2020, Plaintiff sought to obtain a store credit card at Big Lots and submitted a credit application.

57. Shortly thereafter, Big Lots denied Plaintiff's credit application based upon the contents of Plaintiff's Equifax credit report.

58. Specifically, Equifax was reporting Plaintiff deceased on his report.

59. Plaintiff takes great pride in his good name and established credit rating and works hard to ensure that his bills are paid in-full and on-time each month. Plaintiff believes and understands that his credit record with his creditors is good, so Plaintiff could not imagine how his credit application had been denied.

Defendant Equifax's Inaccurate Credit Reporting Causes Plaintiff to be Denied an Auto Loan

60. On or about April 27, 2020, Plaintiff sought to an auto loan at Super Cars Direct, Inc. and submitted a credit application.

61. Shortly thereafter, Super Cars Direct, Inc. denied Plaintiff's credit application based upon the contents of Plaintiff's Equifax credit report.

62. Specifically, Equifax was reporting Plaintiff deceased on his report.

63. Plaintiff takes great pride in his good name and established credit rating and works hard to ensure that his bills are paid in-full and on-time each month.

Plaintiff believes and understands that his credit record with his creditors is good, so Plaintiff could not imagine how his credit application had been denied.

Defendant Equifax's Inaccurate Credit Reporting Causes Plaintiff to be Denied an Auto Loan

64. On or about May 2, 2020, Plaintiff sought to an auto loan from Miracle Ford and submitted a credit application.

65. Shortly thereafter, Miracle Ford denied Plaintiff's credit application based upon the contents of Plaintiff's Equifax credit report.

66. Specifically, Equifax was reporting Plaintiff deceased on his report.

67. Plaintiff takes great pride in his good name and established credit rating and works hard to ensure that his bills are paid in-full and on-time each month. Plaintiff believes and understands that his credit record with his creditors is good, so Plaintiff could not imagine how his credit application had been denied.

Defendant Equifax's Inaccurate Credit Reporting Causes Plaintiff to be Denied an Auto Loan

68. On or about August 1, 2020, Plaintiff sought to obtain an auto loan from Glenn's Freedom and submitted a credit application.

69. Shortly thereafter, Glenn's Freedom denied Plaintiff's credit application based upon the contents of Plaintiff's Equifax credit report.

70. Specifically, Equifax was reporting Plaintiff deceased on his report.

71. Plaintiff takes great pride in his good name and established credit rating and works hard to ensure that his bills are paid in-full and on-time each month. Plaintiff believes and understands that his credit record with his creditors is good, so Plaintiff could not imagine how his credit application had been denied.

Defendant Equifax's Inaccurate Credit Reporting Causes Plaintiff to be Denied a Credit Card

72. On or about August 1, 2020, Plaintiff sought to obtain a credit card from Capital One and submitted a credit application.

73. Shortly thereafter, Capital One denied Plaintiff's credit application based upon the contents of Plaintiff's Equifax credit report.

74. Specifically, Equifax was reporting Plaintiff deceased on his report.

75. Plaintiff takes great pride in his good name and established credit rating and works hard to ensure that his bills are paid in-full and on-time each month. Plaintiff believes and understands that his credit record with his creditors is good, so Plaintiff could not imagine how his credit application had been denied.

Plaintiff Discovers that Defendant Equifax is Reporting Deceased

76. As of December 3, 2020, the deceased notation was reflected in the following tradelines on Plaintiff's Equifax credit report:

- **Synco/American Eagle Tradeline - xxxxxxxxxxxx 0357**

77. The above-referenced tradeline/account was reporting inaccurately in Plaintiff's Equifax credit report because Plaintiff is not deceased.

Plaintiff's Written Dispute with Equifax

78. On or about December 3, 2020, extremely shocked, surprised, and embarrassed at Defendant's inaccurate reporting, Plaintiff mailed a written dispute to Equifax, via certified mail, disputing the deceased notations reporting in his credit report. Plaintiff requested that Equifax reinvestigate the disputed information, correct the reporting, and send a corrected copy of his credit report.

79. Plaintiff's dispute specifically included his full name, date of birth, Social Security number, and current address so that the credit bureaus would be able to properly identify his and locate his credit files.

Equifax's Response to Plaintiff's Dispute

80. Defendant Equifax responded by requesting additional time on January 26, 2021 to complete its investigation.

81. On January 29, Equifax updated the tradeline from deceased to undesignated.

82. At all times pertinent hereto, Defendant Equifax was acting by and through their agents, servants, and/or employees who were acting within the course

and scope of their agency or employment, and under the direct supervision and control of the Defendant herein.

83. At all times pertinent hereto, the conduct of Defendant Equifax, as well as that of their agents, servants, and/or employees, was intentional, willful, reckless, and in grossly negligent disregard for federal law and the rights of Plaintiff herein.

CLAIMS FOR RELIEF

COUNT I

15 U.S.C. § 1681e(b)

Failure to Follow Reasonable Procedures to Assure Maximum Possible Accuracy

84. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1-83 as if fully stated herein.

85. The FCRA mandates that “[w]hen a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.” 15 U.S.C. § 1681e(b).

86. On multiple occasions, Defendant Equifax prepared patently false consumer reports concerning Plaintiff.

87. Despite actual and implied knowledge that Plaintiff is not dead, Defendant Equifax readily sold such false reports to one or more third parties, thereby misrepresenting Plaintiff, and ultimately, Plaintiff’s creditworthiness.

88. Defendant Equifax violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit reports and credit files they published and maintain concerning Plaintiff.

89. As a result of Defendant Equifax's conduct, action, and inaction, Plaintiff suffered damage by loss of credit; loss of the ability to purchase and benefit from his credit; being chilled from seeking credit opportunities; the expenditure of time and money disputing and trying to correct the blatantly inaccurate credit reporting; and emotional distress including the mental and emotional pain, anguish, humiliation, and embarrassment of credit denials, fear of financial difficulty, and the inability to obtain credit for important life purchases.

90. Defendant Equifax's conduct, action, and inaction was willful, rendering them liable for actual or statutory damages, and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n. In the alternative, it was negligent, entitling Plaintiff to recover under 15 U.S.C. § 1681o.

91. Plaintiff is entitled to recover attorneys' fees and costs from Defendant Equifax in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and/or § 1681o.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- a) Determining that Defendant negligently and/or willfully violated the FCRA;
- b) Awarding Plaintiff actual damages, statutory, and punitive damages as provided by the FCRA;
- c) Awarding Plaintiff reasonable attorneys' fees and costs as provided by the FCRA; and
- d) Granting further relief, in law or equity, as this Court may deem appropriate and just.

DEMAND FOR JURY TRIAL

92. Plaintiff demands a trial by jury.

Dated: June 7, 2021

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